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VIA ECF

Honorable Jeannette A. Vargas
Daniel Patrick Moynihan United States Courthouse
500 Pearl St., Room 703
New York, NY, 10007-1312

**RE: Response to Defendant Changpeng Zhao's Notice of Supplemental Authority,
Troell et al. v. Binance Holdings Ltd. et al., No. 1:24-cv-07136 (JAV)**

Dear Judge Vargas,

We write on behalf of Plaintiffs in response to Defendant Changpeng Zhao's Notice of Supplemental Authority, ECF 72. Zhao cites a Letter Order from *Gonzalez v. BAM Trading Services, Inc.*, et al., Civil Action No. 2:24-10286 (BRM) (CLW) (D. N.J.), in which a New Jersey Magistrate Judge recently denied a motion for leave pursuant to Rule 4(f)(3) to serve Zhao via alternative means. His supplemental authority is inapposite.

First, *Gonzalez* considers only Rule 4(f)(3). It does not address Rule 4(e), which Plaintiffs have offered as an independent basis to permit alternative service on Zhao. *Gonzalez* thus provides no support for denying service under that provision, which Zhao has failed to meaningfully address. Indeed, the *Gonzalez* court's denial of service under Rule 4(f)(3) relied on the fact that the plaintiff "fail[ed] to indicate what steps it has taken to personally serve Defendant, if any at all," ECF 72-1 at 4—a fact Zhao has conceded is irrelevant under New York law as applied through Rule 4(e). *See* ECF 66 ("Pls.' Reply") at 2 (New York law "does not require proof of due diligence or of actual prior attempts to serve a party under the other provisions of the statute.") (internal quotation omitted).

Second, here, Plaintiffs *did* indicate the numerous steps they took to personally serve Zhao. *See* ECF 45 ("Pls.' Mem.") at 2-3 (detailing efforts to serve Zhao in the United States and abroad). To avoid this conclusion, Zhao appears to have invented a "rule" that Plaintiffs' efforts to serve him in the United States do not count. *See* Pls.' Reply at 7-8. *Gonzalez*, of course, does not support Zhao's invented rule. Instead, it simply states that "Plaintiff must certainly attempt service in the first instance," ECF 72-1 at 4. Plaintiffs here *have* attempted service in the first instance. *See, e.g.*, ECF Nos. 8-9 (emergency motion to appoint U.S. Marshal Service as special process server) & 19 (summons returned unexecuted).

Third, *Gonzalez* is a non-binding and out-of-circuit decision that relies on prudential attempted-service requirements not mandated by Rule 4(f)(3). In this Circuit, multiple well-reasoned decisions have explained both that (1) such prudential requirements are not mandatory, *see* Pls.' Reply at 6-7 (citing cases), and (2) in this context, granting alternate service is both

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sensible and better serves the interest of judicial efficiency than forcing plaintiffs to follow a cumbersome process and waste judicial resources resolving additional motions after further attempts at service, *see id.* at 1 (citing *Atlantica Holdings, Inc. v. BTA Bank JSC*, 2014 WL 12778844, at *1-2 (S.D.N.Y. Mar. 31, 2014)).

March 25, 2025

Respectfully submitted,

/s/ Adam J. Goldstein

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